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07 UNITED STATES DISTRICT COURT  
08 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

09 LUIS ALVAREZ HURTADO, ) CASE NO. C07-1741-TSZ  
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Petitioner,  
v.  
A. NEIL CLARK,  
Respondent.

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15 Petitioner is a native and citizen of Peru, who is currently detained by the U.S. Immigration  
16 and Customs Enforcement (“ICE”) pursuant to an administratively final order of removal that was  
17 entered on August 21, 2007. On November 7, 2007, he filed a Petition for Writ of Habeas Corpus  
18 pursuant to 28 U.S.C. § 2241, arguing that his detention is unreasonable because he is unable to  
19 afford the \$7,000 bond amount imposed by the Immigration Judge. (Dkt. 6). Respondent moved  
20 to dismiss, arguing that petitioner’s detention is lawful and that his bond is a proper condition of  
21 release. (Dkt. 12). On April 2, 2008, the undersigned Magistrate Judge issued a Report and  
22 Recommendation (“R&R”), finding that because ICE never determined whether petitioner is likely

01 to abscond or is a poor bail risk, it is uncertain whether the \$7,000 bond amount is reasonable and  
02 appropriate given petitioner's circumstances. Accordingly, the undersigned Magistrate Judge  
03 concluded that this matter should be remanded to the Immigration Court for further findings on  
04 whether the \$7,000 bond amount is reasonable and appropriate. (Dkt. 14).

05 After the R&R was issued, however, ICE conducted a custody review of petitioner's case  
06 and determined that petitioner is a flight risk because he has no source of income, no ties to the  
07 community, and no stable residence, and that he should be detained without bond. (Dkt. 16).  
08 Respondent asserts that because petitioner's custody status has been reviewed, there is no need  
09 for an individual determination by an Immigration Judge. On May 20, 2008, the Honorable  
10 Thomas S. Zilly issued an Order re-referring this matter back to the undersigned Magistrate Judge  
11 for further consideration of the habeas petition. (Dkt. 17).

12 The Court agrees with respondent that petitioner's habeas petition is moot and should be  
13 dismissed. As respondent notes, since his last custody review, petitioner has been detained  
14 without bond. Accordingly, petitioner's request that his bond be reduced from \$7,000 to \$1,500  
15 is now moot as he is no longer eligible for release on bond.

16 For a federal court to have jurisdiction, "an actual controversy must exist at all stages of  
17 the litigation." *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).  
18 "When a controversy no longer exists, the case is moot." *Id.* Because petitioner is detained  
19 without bond, the Court finds that petitioner's request for a lower bond amount should be  
20 dismissed as moot. *See, e.g., Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992) (holding that  
21 the District Court properly dismissed plaintiff's claims that had become either moot or unripe).  
22 Accordingly, I recommend that respondent's motion to dismiss be granted, and that this action be

01 dismissed with prejudice. A proposed Order accompanies this Report and Recommendation.

02 DATED this 29th day of May, 2008.

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04 Mary Alice Theiler  
05 United States Magistrate Judge  
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